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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY
DOCKET NO.

IN THE MATTER OF THE
SUSPENSION OR REVOCATION
OF THE LICENSE OF

Administrative Action

CONSENT ORDER

PETER McCOLGAN, D.M.D
LICENSE NO DI 11400

TO PRACTICE DENTISTRY
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Dentistry ("Board") by the filing of a Verified Administrative Complaint of, Peter Verniero, Attorney General of New Jersey, by Eleanor G. Bernstein, Deputy Attorney General, seeking the temporary suspension of the license of respondent, Peter McColgan, D.M.D., to practice dentistry, and for other relief pursuant to the authority conferred on the Board by N.J.S.A. 45:6-1 et seq. and 45:1-14 et seq. and related administrative regulations. The Complaint alleged nine incidents of improper sexual contact by respondent with nine female patients during respondent's course of treatment for these patients between August 1, 1995 to September 30, 1996. On or about October 2, 1996, the Board temporarily suspended Dr.

McColgan's license to practice dentistry in New Jersey pending plenary hearing. On or about October 30, 1996, the Attorney General filed an Amended Complaint which included one additional Count alleging that respondent touched a tenth female patient in a sexual manner.

On or about August 19, 1998, respondent pled guilty to one count of criminal sexual contact in the fourth degree as to six female patients, S.M., S.R., C.D., P.D., K.A., and P.H., in violation of N.J.S.A. 2C:14-3(b) before the Honorable Salem V. Ahto in Morris County Superior Court as a prelude to entering into the Pretrial Intervention Program. Respondent has also pled guilty to N.J.S.A. 2C:33-4(b) in that he harassed three other female victims, S.M., M.P., and J.W., by touching them in an offensive manner. As conditions of entering into the Pretrial Intervention Program, respondent agreed to remain out of the practice of dentistry for a period of three years, and to undergo psychological testing. Respondent's conduct constitutes gross and repeated acts of malpractice, negligence and incompetence in violation of N.J.S.A. 45:1-21(c) and (d), and professional misconduct in violation of N.J.S.A. 45:1-21(e), and are thus the basis for disciplinary sanction pursuant to N.J.S.A. 45:1-21(h). Said conduct further demonstrates the absence of good moral character, a continuing requirement for licensure pursuant to N.J.S.A. 45:6-3.

The parties having consented to the entry of this Order, and the Board finding the within Order to be adequately protective of the public interest;

IT IS THEREFORE on this 1st day of December, 1998,

ORDERED that:

1. The license of Respondent Peter McColgan, D.M.D., shall be and is hereby revoked. There shall be a three year period of ineligibility beginning on August 19, 1998 and lasting until August 19, 2001 before respondent may reapply for licensure. The inclusion of this period of

ineligibility does not imply the consent of the Board to relicense respondent upon application for relicensure.

2. Respondent shall pay a civil penalty in the amount of \$10,000 by certified check or money order payable to the Board of Dentistry and sent to the attention of the Executive Director of the Board. All monies due and owing to the Board pursuant to this provision shall be paid in full prior to any reapplication for licensure by respondent to the Board. If respondent fails to pay all monies due and owing the Board, then the Board will not consider any reapplication submissions by respondent until such time as respondent complies with this provision. The Board will file a Certificate of Debt contemporaneously with the entry of this Order. The inclusion of this provision does not imply the consent of the Board to relicense respondent upon application for relicensure.

3. Respondent shall pay all administrative and investigative costs involved in this investigation in the amount of \$10,776.61. All monies due and owing to the Board pursuant to this provision shall be paid in full prior to any reapplication for licensure by respondent to the Board. If respondent fails to pay all monies due and owing the Board, then the Board will not consider any reapplication submissions by respondent until such time as respondent complies with this provision. The Board will file a Certificate of Debt contemporaneously with the entry of this Order. The inclusion of this provision does not imply the consent of the Board to relicense respondent upon application for relicensure.

4. Respondent shall undergo any and all treatment recommended by any therapist that respondent has been ordered to see pursuant to the direction of the Court. Respondent expressly waives any claims of confidentiality of the records and/or reports of any and all examining and treating psychiatrist(s)/therapist(s) with regard to the Board or to the Attorney General.

5. Should respondent submit an application for relicensure after the term of ineligibility is finished, then respondent shall appear before

the Board or a Committee of the Board for a status conference. Said application shall be accompanied by a written evaluation from his treating psychologist and/or therapist which shall contain a written up-to-date report containing information about compliance with the plan of treatment and information concerning whether respondent is fit, competent and sufficiently capable to reenter the practice of dentistry. The burden shall be on respondent to demonstrate to the Board's satisfaction that he has fully complied with the terms of this Order and all terms of his Pretrial Intervention Program, and is fit, competent and sufficiently capable to reenter the practice of dentistry. The inclusion of this status conference provision does not imply the consent of the Board to relicense respondent upon application for relicensure.

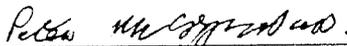
6. Respondent shall observe the directives for a suspended or revoked dentist, a copy of which is attached hereto and made a part hereof.

BOARD OF DENTISTRY

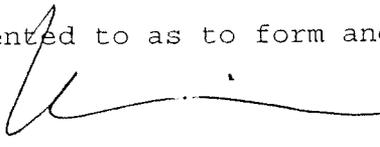


Abraham Samansky, D.D.S.
President

I have read and understood the within Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.


Peter McColgan, D.M.D.

Consented to as to form and entry


Michael Reimer, Esq.
Attorney for respondent

DIRECTIVE REGARDING FUTURE ACTIVITIES
OF BOARD LICENSEE WHO HAS BEEN SUSPENDED/
REVOKED AND USE OF THE PROFESSIONAL PREMISES

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board shall conduct him/herself as follows.

- 1) Promptly deliver to the Board the original license and current biennial registration and, if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances registrations.
- 2) Desist and refrain from the practice of dentistry in any form either as principal or employee of another licensee.
- 3) Inform each patient at the time of any inquiry of the suspended or revoked or retired status of the licensee. When a new licensee is selected by a patient, the disciplined practitioner shall promptly make available the original or a complete copy of the existing patient record to the new licensee, or to the patient if no new licensee is selected. Such delivery of record does not waive any right of the disciplined practitioner to claim compensation earned for prior services lawfully rendered.
- 4) Not occupy, share or use office space in which another licensee practices dentistry.
- 5) Desist and refrain from furnishing professional dental services, giving an opinion as to the practice of dentistry or its application, or any advice with relation thereto; and from holding him/herself out to the public as being entitled to practice dentistry or in any way assuming to be a practicing professional or assuming, using or advertising in relation thereto in any other language or in such a manner as to convey to the public the impression that such person is a legal practitioner or authorized to practice dentistry. This prohibition includes refraining during the period of suspension or revocation from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing.
- 6) Cease to use any stationery whereon such person's name appears as a dentist in practice. If the practitioner was formerly authorized to issue written prescriptions for medication or treatment, such prescription pads shall be destroyed if the license was revoked. If the license was suspended, the prescriptions shall be destroyed or shall be stored in a secure location to prevent theft or any use whatsoever until issuance of a Board Order authorizing use by the practitioner. Similarly, medications possessed for office use shall be lawfully disposed

of, transferred or safeguarded.

7) Not share in any fee for dental services performed by any other licensee following the suspension, revocation or surrender of license, but the practitioner may be compensated for the reasonable value of the services lawfully rendered and disbursements incurred on the patient's behalf prior to the effective date of the suspension, revocation or surrender.

8) Use of the professional premises. The disciplined licensee may allow another licensee to use the office premises formerly occupied by the disciplined licensee on the following conditions only:

(a) The new licensee shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.

(b) The disciplined licensee may accept no portion of the fees for professional services rendered by the new licensee, whether by percentage of revenue, per capita patient, or by any other device or design, however denominated. The disciplined licensee may, however, contract for or accept payment from the new licensee for rent (not exceeding fair market value) of the premises and either dispose of or store the dental material and equipment, but in no event shall the disciplined licensee, on the basis of a lease or any other agreement for compensation place in the possession of any operator, assistant or other agent such dental material and equipment, except by a chattel mortgage.

(c) No use of name of disciplined licensee or personally owned office name or tax- or provider identification number.

1. Where the disciplined licensee was using an individual IRS number or where the licensee was the sole member of an incorporated professional association or a corporation, the disciplined licensee may contract to rent the office premises to a new practitioner. The new practitioner must use his/her own name and own provider number on all bills and insurance claim forms. Neither the name nor the number of the disciplined licensee may be used. When the license of a sole practitioner has been revoked, a trade name must be cancelled and a professional service corporation must be dissolved.

2. Where the disciplined licensee is a

member of a professional group which uses a group-type name such as the ABC Dental Group, the disciplined licensee must arrange to have his/her name deleted, covered up or otherwise obliterated on all office signs, advertisements published by the group after the effective date of the Board disciplinary Order and on all printed billings and stationery. The other group members may continue to function under the incorporated or trade name, minus the name of the disciplined licensee, and may continue to use its corporate or professional identification number.

(9) Report promptly to the Board compliance with each directive requiring moneys to be reimbursed to patients or to other persons or third party payors or to any court, and regarding supervisory reports or other special conditions of the Order.

(10) A practitioner whose license is surrendered, revoked or actively suspended for one year or more shall conduct him/herself as follows:

1) Promptly require the publishers of any professional directory and any other professional list in which such licensee's name is known by the disciplined licensee to appear, to remove any listing indicating that the practitioner is a licensee of the Board in good standing.

2) Promptly require any and all telephone companies to remove the practitioner's listing in any telephone directory indicating that such practitioner is a practicing professional.

(11) A practitioner whose practice privileges are affected by a Board disciplinary Order shall, within 90 days after the effective date of the Board Order, file with the Executive Director of the Board a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person. Any change in the residence, address or telephone number shall be promptly reported to the Executive Director.